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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

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THE PEOPLE,

Plaintiff and Respondent,

v.

STEPHEN DARNELL BOYD,

Defendant and Appellant.

C063010

(Super. Ct. No. CM029034)

After defendant Stephen Darnell Boyd grabbed his live-in girlfriend by the throat, shoved her against the wall, grabbed her hair and pushed her to the ground, he pled guilty to committing corporal injury on a spouse. Initially, the trial court suspended imposition of sentence and placed defendant on probation. But defendant violated the terms of his probation, and the court ultimately sentenced him to the upper term of four years in prison.

In so doing, the court awarded defendant 226 days of custody credit and 112 days of conduct credit pursuant to Penal Code section 4019.

The sole issue raised by defendant on appeal is whether amendments to Penal Code section 4019, effective January 25,

2010, apply retroactively to his pending appeal and entitle him to additional presentence credits. We conclude that the amendments do apply to all appeals pending as of January 25, 2010. (*In re Estrada* (1965) 63 Cal.2d 740, 745 [amendments lessening punishment for crime apply to acts committed before enactment, provided the judgment is not final]; *People v. Hunter* (1977) 68 Cal.App.3d 389, 393 [applying *Estrada* to amendment involving custody credits]; *People v. Doganiere* (1978) 86 Cal.App.3d 237 [involving conduct credits].) Defendant is not among the prisoners excepted from the additional accrual of credit. (Pen. Code, § 4019, subds. (b) & (c); Stats. 2009, 3d Ex. Sess., ch. 28, § 50.) Thus, having served 226 days of presentence custody, he is entitled to 226 days of conduct credit. We shall modify the judgment accordingly.

DISPOSITION

The judgment is modified to award defendant 226 days of conduct credit. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

We concur: ROBIE, J.

NICHOLSON, Acting P. J.

CANTIL-SAKAUYE, J.